UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION

FILED

2005 SEP 30 P 3: 49

U.S. BANKRUPTCY COURT
WINSTON-SALEM, N.C.
DIVISIONAL OFFICE
BY__________

In re: Cathy Suzanne Brookshire, Debtor, 405 Mica Court Winston-Salem, NC 27103-6461 Last four digits of Social Security Number: 0396	CASE NO. B-05-51091 Chapter 7
BRYAN C. THOMPSON, Administrator CTA of the Estate of Florence Cathleen Parker Brookshire, and KIM C. BROOKSHIRE, Plaintiffs, v. CATHY SUZANNE BROOKSHIRE, EDWIN H. FERGUSON, JR., Bankruptcy Trustee Defendants.	ADVERSARY PROCEEDING No. 05-6022

MOTION FOR SUMMARY JUDGMENT

Plaintiffs Bryan C. Thompson, Administrator CTA of the Estate of Florence Cathleen Parker Brookshire, and Kim C. Brookshire move for summary judgment pursuant to Rule 56, Fed. R. Civ. P., on the grounds that the undisputed material facts show that plaintiffs are entitled to judgment as a matter of law.

In particular, the undisputed evidence before the Court shows that the defendant breached her fiduciary duty to her mother, Florence Cathleen Parker Brookshire ("Mrs.

Brookshire"), committed embezzlement, obtained money and property from Mrs. Brookshire by means of fraud and false pretenses, and injured Mrs. Brookshire willfully and maliciously: Defendant caused Mrs. Brookshire to name her as attorney-in-fact and then used her authority as attorney-in-fact to take from Mrs. Brookshire practically all of her assets; Mrs. Brookshire entrusted her assets to the defendant, and the defendant appropriated the assets for her own use, and the circumstances indicate fraud; Defendant willfully and maliciously converted Mrs. Brookshire's property, taking it for her own and excluding Mrs. Brookshire from using it. Defendant used Mrs. Brookshire's cash and credit for clothing, sporting goods, and trips for herself and her friends, among other things. Defendant sold Mrs. Brookshire's real property and used the proceeds from the sale to purchase a vehicle for herself. Defendant obtained an equity line of credit with Mrs. Brookshire's home as security, and spent from the equity line of credit more than $50,000.00 on herself.

In support of their motion, plaintiffs submit the following documents:

1. Judgment in *In re Will of Brookshire*, 04 CVS 5210 (Forsyth County)
2. Durable Power of Attorney dated June 22, 2000
3. Durable Power of Attorney dated May 3, 2002
4. Affidavit of Teresa Brookshire
5. Durable Power of Attorney dated March 20, 2003
6. Deposition of Cathy Suzanne Brookshire, September 14, 2004
7. Bank of America and Truliant credit card statements
8. Checks from Truliant checking account
9. North Carolina General Warranty Deed

10. Late payment notices

11. Last Will and Testament dated May 3, 2002

This, the 29 day of September, 2005.

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In re: Cathy Suzanne Brookshire, Debtor, 405 Mica Court Winston-Salem, NC 27103-6461 Last four digits of Social Security Number: 0396	)	**CASE NO. B-05-51091** **Chapter 7**
BRYAN C. THOMPSON, Administrator CTA of the Estate of Florence Cathleen Parker Brookshire, and KIM C. BROOKSHIRE, Plaintiffs, v. CATHY SUZANNE BROOKSHIRE, EDWIN H. FERGUSON, JR., Bankruptcy Trustee Defendants.	)	**ADVERSARY PROCEEDING** **No. 05-6022**

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the document captioned Motion For Summary Judgment in the above-entitled action upon all other parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Post Office Department properly addressed to:

Bryan Gates, Esq.
One North Marshall Street, Suite 100
Winston-Salem, NC 27101
Attorney for Debtor Cathy Suzanne Brookshire

Bryan C. Thompson, Esq.
125 W. Third Street, Suite 15
Winston-Salem, NC 27101
Administrator CTA of the Estate of
Florence Cathleen Parker Brookshire

This, the 30 day of September, 2005.

CRAIGE BRAWLEY LIIPFERT & WALKER LLP
Attorneys for plaintiffs

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